

	ARIZONA DEPARTMENT OF RACING Policy and Procedure	
	Subject Policy for Revoking or Suspending a License for Non-Payment of Financial Obligations	Policy Number 04-009
		Effective Date 8/1/2004
Supersedes: All Department of Racing's prior revocation or suspension of licenses for non-payment of financial obligations policies and procedures.		

PURPOSE

Pursuant to A.R.S. §§ 5-108(A)(4), 5-108.05(A) and A.A.C. R19-2-112(18) the Department of Racing may revoke or suspend a license if a licensee has failed to meet any monetary obligation in connection with a race meeting. Therefore, the following policy and procedure establishes responsibilities regarding the revocation and suspension process for these circumstances.

SUBSTANTIVE POLICY STATEMENT

This substantive policy statement is advisory only. A substantive policy statement does not include internal procedural documents that only affect internal procedures of the agency and does not impose additional requirements or penalties on regulated parties or include confidential information or rules made in accordance with the Arizona administrative procedure act. If you believe that this substantive policy statement does impose additional requirements or penalties on regulated parties you may petition the agency under Arizona Revised Statutes section 41-1033 for a review of the statement.

DEFINITIONS

1. **Department** means the Arizona Department of Racing
2. **Director** means the Director of the Department
3. **Licensee** means an individual or entity licensed by the Department pursuant to Arizona Racing Laws, Rules and Regulations.
4. **Creditor** means an individual or entity who is a licensee, or otherwise, who demonstrates a legitimate debt owed to them by a licensee or applicant, as established herein.
5. **Debtor** means a licensee or license applicant who owes a legitimate debt to a creditor, as established herein.

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6. **Legitimate debt** means a total amount, greater than \$100.00, owed by a debtor to a creditor for which the creditor informed the debtor and is able to demonstrate that at least two verifiable written collection attempts have been made within the previous twelve months, allowing the debtor reasonable time between requests to respond, dispute, or pay. A legitimate debt is also established when the creditor demonstrates substantive evidence that the debtor deliberately and knowingly refuses to satisfy a debt incurred in connection with racing and as determined by the stewards and/or the Director.
7. **Verifiable written collection attempt** means a written request for payment which states the name of the creditor, address, contact information, the name of the debtor, the debtor's account number (when applicable), the reason for the debt, the total amount owed, and the date in which payment is to be satisfied by the debtor. The creditor shall demonstrate that a request for payment was sent by providing proof of return postal receipt, other documents that show the debtor's signature or acknowledgement (e-mail, fax, etc.) confirming receipt of such request, or a notarized affidavit, in a Department prescribed form, declaring its attempt to collect.
8. **Reasonable time** means at least three calendar days from the date a verifiable written collection attempt is received by the debtor or ten calendar days from the date the verifiable written collection attempt is issued by the creditor, whichever occurs first.

POLICY & PROCEDURE

- A. Department employees, stewards, officials and/or agents shall not become involved and/or become part of the collection efforts of any creditor, except as established herein.
- B. The Licensing Section shall provide signage, in English and Spanish, at each permittee location, shall include with each license application, and shall post in the Department's website a statement that refers to this policy and informs license applicants of their right to a copy of this policy, if requested.
- C. The stewards shall make a determination whether an invoice presented for Department action against a licensee or an applicant by a creditor is a legitimate debt or not. If the stewards determine that it is not a legitimate debt, the creditor shall be informed about what constitutes a legitimate debt, as established herein, and shall be provided a copy of this policy. The stewards determination of the legitimacy of a debt constitutes authority to hear the matter for possible action against the debtor.
- D. If the stewards determine that an invoice is a legitimate debt, they shall schedule a hearing for possible action against the debtor.
- E. Stewards shall notify debtors and creditors when a hearing is scheduled for the debtor and creditor to appear before them. Stewards shall provide both parties a copy of this policy at the time the hearing notice is provided.

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- F. Debtors who fail to pay a legitimate debt may have their licenses suspended, revoked, and/or not issued, if an applicant, until the legitimate debt is paid in full, as established by Arizona Racing Laws, Rules and Regulations.
- G. If a debtor does not appear for a hearing with the stewards, as notified, the stewards shall suspend the debtor's license for up to sixty days and may refer the case to the Director.
- H. If a creditor does not appear for a hearing with the stewards, as notified, the stewards may dismiss the matter. The creditor shall not request a hearing regarding the same matter, unless the creditor has obtained a court ruling in the creditor's favor and/or can show good cause for not appearing at the stewards hearing.
- I. If a debtor agrees to pay a legitimate debt before or during a hearing with the stewards, the matter may be continued until the legitimate debt is paid in full. The debtor shall notify the stewards and the creditor, in writing, of the decision to pay, as established in this section, on or before the hearing date.
- J. If the debtor provides evidence that the legitimate debt has been paid, the stewards may dismiss the matter, unless the stewards determine that other legitimate debts were brought against the debtor in the past, in which case, Section N of this policy shall apply.
- K. If the creditor presents a court ruling in the creditor's favor, a hearing shall be scheduled and the debtor and the creditor shall be notified, as established herein. Pursuant to their authority, the stewards shall suspend the debtor's license for up to sixty days and may refer the matter to the Director.
- L. If a debtor disputes a legitimate debt, the debtor shall present evidence confirming the debtor's verifiable written notification to the creditor of the debtor's dispute. The debtor's verifiable notification to the creditor shall include the debtor's name, the debtor's account with the creditor (when applicable), the creditor's name, the amount disputed, and the reason for the dispute. The debtor shall demonstrate that a dispute notification was sent by providing proof of return postal receipt or other documents that show the creditor's signature or acknowledgement (e-mail, fax, etc.) confirming receipt of such request on or before the hearing date.
- M. If a debtor substantiates a dispute of a legitimate debt, as established on Section L of this policy, the stewards may dismiss the matter and shall advise both parties, the debtor and the creditor, to seek remedy in court.

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- N. If a debtor is scheduled for a hearing before the stewards for a legitimate debt and the debtor has previously paid any legitimate debt, as established herein, after having the matter scheduled for a hearing before the stewards, regarding the previous legitimate debts, then, the stewards may suspend the debtor's license up to sixty days and may refer the matter to the Director, even if the debtor has paid all legitimate debts to date.
- O. If a matter is referred to the Director, all parties shall be notified and required to appear before the Director at the scheduled hearing.
- P. Director decisions may be appealed to the Racing Commission.
- Q. Any Department employee, agent, and/or official failing to comply with this policy may be subject to disciplinary action up to and including suspension and/or termination from State employment. The Director may authorize exceptions to this policy, as requested by a Department steward and as he/she desires.



Geoffrey E. Gonsher, Director_____
Date